

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
GREENEVILLE

UNITED STATES OF AMERICA,)
)
Plaintiff,)
) Civil No. 2:19-CV-93
v.)
) Judge
Columbia 12 gauge single-shot shotgun, no serial number,)
Unknown make or model .22 caliber single-shot rifle,)
 no serial number,)
Savage model crack-shot 26 .22 caliber rifle,)
 no serial number,)
Parkhurst 12 gauge double-barrel shotgun,)
 no serial number,)
Montgomery Ward 12 gauge single-shot shotgun,)
 serial number 846118, and)
Fifteen (15) rounds 12 gauge (14 Federal, one Remington))
 Ammunition,)
)
Defendants.)

VERIFIED COMPLAINT IN REM

Comes now the plaintiff, United States of America, by and through its attorneys, J. Douglas Overbey, United States Attorney for the Eastern District of Tennessee, and Gretchen Mohr, Assistant United States Attorney, and brings this complaint and alleges as follows in accordance with Rule G(2) of the Federal Rules of Civil Procedure, Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions.

NATURE OF THE ACTION

1. In this *in rem* civil action, the United States of America seeks forfeiture of:
 - (a) Columbia 12 gauge single-shot shotgun, no serial number;
 - (b) Unknown make or model .22 caliber single-shot rifle, no serial number;

- (c) Savage model crack-shot 26 .22 caliber rifle, no serial number;
- (d) Parkhurst 12 gauge double-barrel shotgun, no serial number;
- (e) Montgomery Ward 12 gauge single-shot shotgun, serial number 846118;
and
- (f) Fifteen (15) rounds 12 gauge (14 Federal, one Remington) ammunition,
(hereinafter “defendant properties”).

THE DEFENDANT *IN REM*

3. The defendant properties were seized on January 11, 2018, at the residence of Lawrence Earhart at 125 Earhart Drive, Bristol, Tennessee, incident to his arrest by agents of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (“ATF”), United States Marshals Service, and other local officers.

4. The defendant properties are in the custody of ATF.

JURISDICTION AND VENUE

5. Plaintiff brings this action *in rem* in its own right to forfeit and condemn the defendant properties. This Court has jurisdiction over an action commenced by the United States under 28 U.S.C. § 1345, and over an action for forfeiture under 28 U.S.C. § 1355(a).

6. This Court has *in rem* jurisdiction over the defendant properties under 28 U.S.C. § 1355(b). Upon the filing of this complaint, the plaintiff requests that the Clerk issue an arrest warrant *in rem* pursuant to Supplemental Rule G(3)(b)(i). The plaintiff will then execute the warrant upon the defendant properties pursuant to 28 U.S.C. § 1355(d) and Supplemental Rule G(3)(c).

7. Venue is proper in this district pursuant to 28 U.S.C. § 1335(b)(1)(A), because the acts or omissions giving rise to the forfeiture occurred in this district, and pursuant to 28 U.S.C. § 1335(b) because the defendant properties are located in this district.

BASIS FOR FORFEITURE

8. The defendant properties are subject to forfeiture pursuant to 18 U.S.C. § 924(d)(1), which authorizes civil forfeiture of firearms in possession of unlawful users of a controlled substance, in violation of 18 U.S.C. § 922(g)(3).

FACTS

9. The facts and circumstances supporting the forfeiture of the defendant properties are as follows:

a. Lawrence Powell Earhart, II [hereinafter “Earhart”] from whom the firearms were seized incident to his arrest, was a member of a drug trafficking organization operating in the Eastern District of Tennessee and Southwest Virginia during the time frame of the conspiracy charged in the Indictment on January 9, 2018, in EDTN Case No. 2:18-CR-17, *United States v. Alosio, et al.* Earhart and others were charged with violations of 21 U.S.C. §§ 846, 841(a)(1) and 841(b)(1)(A), among other charges.

b. On May 20, 2019, a Plea Agreement [Doc. 1017] was filed with the Court in which Earhart agreed to plead guilty to the lesser included offense of Count One of the Indictment, conspiracy to distribute five grams or more, but less than 50 grams of methamphetamine, its salts, its isomers, and salts of its isomers. In the Plea Agreement, Earhart agreed to forfeit his interest in, and agreed not to contest forfeiture of, the defendant properties

listed in paragraph 1, above. A change of plea hearing for Earhart is pending and is currently set for June 4, 2019.

c. Since approximately January 2016 the organization obtained multi-kilogram quantities of crystal methamphetamine, from cities within the Eastern District of Tennessee as well as cities in Georgia, which was transported to the Tri-Cities area of the Eastern District of Tennessee and to Southwest Virginia, where it was distributed.

d. On June 2, 2016, a traffic stop was conducted on a vehicle operated by Earhart near his residence in Blountville, Tennessee. He was arrested in possession of four (4) plastic baggies containing methamphetamine as well as three (3) dosage units of morphine sulphate. Earhart told officers that he had been using methamphetamine for a while and that he did not use it every day, but had developed a problem. Earhart also told officers that the methamphetamine in his possession that night belonged to the passenger in the vehicle, a co-conspirator, who gave it to him as they were getting pulled over.

e. The officers seized Earhart's cellular telephone during June 2, 2016, traffic stop, and a subsequent search of the phone revealed the following text messages:

(1) On March 2, 2016, Earhart contacted a co-conspirator and ordered an 8-ball of methamphetamine (3.5 grams) and some hypodermic needles. Subsequently, on March 7, 2016, March 9, 2016, and April 8, 2016, Earhart sent text messages to the same co-conspirator and ordered additional methamphetamine and hypodermic needles. On April 11, 2016, Earhart contacted the co-conspirator and arranged to pay for the methamphetamine previously obtained.

(2) On May 5, May 21, and May 23, 2016, Earhart ordered three 8-balls of methamphetamine from the same co-conspirator.

f. Earhart was interviewed on February 9, 2017, and reported he had been involved with methamphetamine for a long time, and had started distributing crystal methamphetamine from his residence located at 125 Earhart Drive, Bristol, Tennessee around January 2016. He admitted purchasing multiple 8-balls (3.5 grams) of methamphetamine at a time from a co-conspirator.

g. The defendant properties were seized by agents of the Bureau of Alcohol, Tobacco, and Firearms (“ATF”) on January 11, 2018, from Earhart, at 125 Earhart Drive, Bristol, Tennessee, incident to his arrest for charges in the Indictment.

h. Because the defendant properties were involved in violations of 18 U.S.C. § 922(g)(3), the defendant properties are subject to forfeiture to the United States in accordance with 18 U.S.C. § 924(d)(1).

CLAIM FOR RELIEF

11. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 9 above, including, the subparts thereof.

12. The defendant properties constitute properties involved in violations of 18 U.S.C. § 922(g)(3). Accordingly, the defendant properties are subject to forfeiture to the United States in accordance with 18 U.S.C. § 924(d)(1).

PRAYER FOR RELIEF

WHEREFORE, the United States of America prays that the Clerk issue a Warrant for Arrest *In Rem* for the defendant properties and that the defendant properties be condemned and forfeited to the United States of America in accordance with the provisions of law; that notice of this action be given to all persons known or thought to have an interest in or right against the

defendant properties; and that the plaintiff be awarded its costs in this action and for such other necessary and equitable relief as this Court deems proper.

J. DOUGLAS OVERBEY
United States Attorney

By: s/Gretchen Mohr
GRETCHEN MOHR
Assistant United States Attorney
800 Market St., Suite 211
Knoxville, Tennessee 37902
(865) 545-4167

VERIFICATION

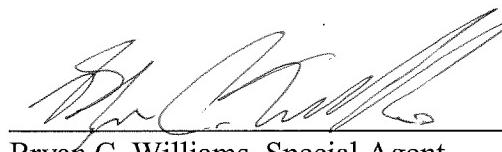
I, Special Agent Bryan C. Williams, hereby verify and declare under penalty of perjury as provided by 28 U.S.C. § 1746, the following:

That I have read the foregoing Verified Complaint *In Rem* and know the contents thereof, and that the matters contained in the Verified Complaint *In Rem* are true to my own knowledge, except that those matters herein stated to be alleged on information and belief and as to those matters I believe them to be true.

The sources of my knowledge and information and the grounds of my belief are the official files and records of the United States, information supplied to me by other law enforcement officers, as well as my investigation of this case, together with others, as a Special Agent of the Bureau of Alcohol, Tobacco, Firearms, and Explosives.

I hereby verify and declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct.

Executed this 3rd day of June, 2019.



Bryan C. Williams, Special Agent
Bureau of Alcohol, Tobacco, Firearms and Explosives

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

United States of America

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
 Gretchen Mohr, Assistant United States Attorney
 800 Market St., Suite 211
 Knoxville, Tennessee 37902

(865) 545-4167

DEFENDANTS

Columbia 12 gauge single-shot shotgun, no serial number, et al.

County of Residence of First Listed Defendant **Sullivan***(IN U.S. PLAINTIFF CASES ONLY)*NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys *(If Known)*
 Ricky A.W. Curtis, Attorney at Law, P.C. (423) 354-0002
 3229 Highway 126
 Blountville, TN 37617
 rawc@rickyawcurtis.com

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- | | |
|-----------------------------------------------------------------|----------------------------------------------------------------------------------------------|
| <input checked="" type="checkbox"/> 1 U.S. Government Plaintiff | <input type="checkbox"/> 3 Federal Question
<i>(U.S. Government Not a Party)</i> |
| <input type="checkbox"/> 2 U.S. Government Defendant | <input type="checkbox"/> 4 Diversity
<i>(Indicate Citizenship of Parties in Item III)</i> |

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability		<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 330 Federal Employers' Liability		<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability		<input type="checkbox"/> 420 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	PERSONAL PROPERTY		<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 480 Consumer Credit	
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 485 Telephone Consumer Protection Act	
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 490 Cable/Sat TV	
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 850 Securities/Commodities/ Exchange	
<input type="checkbox"/> 195 Contract Product Liability			<input type="checkbox"/> 890 Other Statutory Actions	
<input type="checkbox"/> 196 Franchise			<input type="checkbox"/> 891 Agricultural Acts	
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	SOCIAL SECURITY	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 440 Other Civil Rights	Habeas Corpus:	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 463 Alien Detainee	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 896 Arbitration
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 950 Constitutionality of State Statutes
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 865 RSI (405(g))	
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	Other:		
	<input type="checkbox"/> 448 Education	<input type="checkbox"/> 540 Mandamus & Other		
		<input type="checkbox"/> 550 Civil Rights		
		<input type="checkbox"/> 555 Prison Condition		
		<input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		
			FEDERAL TAX SUITS	
			<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	
			<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	
			IMMIGRATION	
			<input type="checkbox"/> 462 Naturalization Application	
			<input type="checkbox"/> 465 Other Immigration Actions	

V. ORIGIN *(Place an "X" in One Box Only)*

- | | | | | | | |
|-----------------------------------------------------------|-----------------------------------------------------|----------------------------------------------------------|---------------------------------------------------|------------------------------------------------------------------------|----------------------------------------------------------------|-------------------------------------------------------------------|
| <input checked="" type="checkbox"/> 1 Original Proceeding | <input type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or Reopened | <input type="checkbox"/> 5 Transferred from Another District (specify) | <input type="checkbox"/> 6 Multidistrict Litigation - Transfer | <input type="checkbox"/> 8 Multidistrict Litigation - Direct File |
|-----------------------------------------------------------|-----------------------------------------------------|----------------------------------------------------------|---------------------------------------------------|------------------------------------------------------------------------|----------------------------------------------------------------|-------------------------------------------------------------------|

Cite the U.S. Civil Statute under which you are filing (*Do not cite jurisdictional statutes unless diversity*):
 18 USC 922(g)(3), 18 USC 924(d)(1)**VI. CAUSE OF ACTION**Brief description of cause:
 Forfeiture of firearms used to facilitate distribution and sale of controlled substances.**VII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S)

IF ANY

(See instructions):

JUDGE LEON JORDAN

DOCKET NUMBER 2:18-CR-17 US v Alosio et al

DATE

SIGNATURE OF ATTORNEY OF RECORD

06/03/2019

s/Gretchen Mohr, Assistant U.S. Attorney

FOR OFFICE USE ONLY

RECEIPT #

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